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November 1, 2004

Honorable Chairman Pat Miller
Honorable Director Deborah Taylor Tate
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Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN. 37243-0505

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Tennessee Regulatory Authority

RE: Generic Docket to Examine Tariffs Setting Rates for Inmate Pay Phone Usage, 2004 Docket #00-00166

Tennessee Regulatory Authority Rulemaking to Amend Chapter 1220-4-2-.43 through .54, Known as Pay Telephone Rules, 2004 Docket #00-00211

Dear Honorable Chairman and Directors:

Reconciliation is a statewide non-profit organization whose sole mission is to serve children and families of Tennessee prisoners. Our agency recognizes that although family members of inmates are not guilty of any wrongdoing themselves, they are often ostracized by the community and suffer emotional, social and financial hardship through no fault of their own.

Throughout the years, numerous complaints concerning inmate telephone services have been brought to our attention by prisoners and their families and friends. Such problems range from high telephone charges and questionable billing practices to quality of service. While some of the issues have been resolved through meetings between the Tennessee Department of Correction (TDOC) and Reconciliation's Family Advisory Board, many others are still matters of concern.

On October 11, 2004, the Tennessee Regulatory Authority (TRA) scheduled a rulemaking hearing concerning changes to pay telephone regulations for telecommunications companies, including inmate pay telephone regulations. Reconciliation monitors legislative actions that ultimately impact inmates and their families through the Select Oversight Committee on Corrections (SOCC). Usually, important issues concerning the corrections system are reviewed by the SOCC before a hearing is held. However, since the SOCC is not responsible for inmate pay telephone regulations, we had no knowledge of this rulemaking meeting scheduled by the TRA until recently.

After reviewing docket numbers 04-00166 and 04-00211, rules amended by the TRA and comments submitted by telecommunications companies and other interested parties, Reconciliation is extremely concerned about the final decision and how it will directly impact the population of families and children we serve. This is especially true considering that a majority of the people who actually pay for prison phone services were, like us, completely unaware of the rulemaking hearing or proposed changes.

According to docket #04-00166, the TRA has given an interim cap rate increase of 50% above the prior cap on inmate local collect calls (raising the cap from \$1.00 per call to \$1.50). In addition, in docket #04-00211, the Sheriff's Association requests an even larger rate cap increase of \$2.50 for local collect calls from jails. Both dockets indicate that surcharges would be included with the rate increase regardless of the duration of the call. Reconciliation opposes inmate telephone rate increases in any amount at prisons and jails; we further oppose call durations of less than 30 minutes per call for the reasons stated below.

I. Conditions indicate that this is not the proper time for a rate increase

- A. Telephone rate increases deepen poverty conditions for poor families in Tennessee and, with a declining economy, increase their financial burden. According to the U. S. Census Bureau, 2003 American Community Survey, on a scale of 1 to 51 on the poverty survey of 50 states and the District of Columbia, with 51 (New Hampshire) representing the most prosperous state, our state ranks #12 for poor children, #13 for poor persons over 65 and #16 for poor citizens overall. Historically, families of prisoners have relatively few resources and low incomes.
- B. Inmate telephone calls already are not affordable to inmates and to the customers who pay for the service— the families of prisoners. The vast majority of state prisoners are unable to pay for their own telephone calls; it's simply not possible. Some inmates are on lengthy waiting lists until prison jobs become available. The rate of pay Tennessee inmates receive from prison jobs ranges from \$.17 to \$.59 per hour for a maximum 30-hour work week, with the exception of those few inmates in work release or prison industry programs. Indigent inmates are provided a monthly hygiene kit and \$6.00 a month if the balance in their prison account is less than \$6.00.
- C. National trends reveal rate reductions and major reform for inmate telephone services. States across the nation have been reviewing the practices of telecommunications companies that provide inmate phone services, resulting in administrative initiatives, corrections oversight, contract changes and legislation that have radically reduced inmate phone rates. This national trend in reducing or capping at low levels inmate phone rates has been a direct result of unreasonably high charges by inmate phone service providers and an acknowledgment that it is the families of prisoners – many of whom have low incomes – who must pay those charges. The following are examples of how other jurisdictions are confronting the problem of high prison phone rates:
 - 1) Missouri has announced that its next contract for inmate telephone systems will not include a commission to the state. (Currently, Tennessee receives a 42.7% commission.)
 - 2) The Ohio prison system has entered into a contract that will reduce the cost of phone calls by 15%.
 - 3) The Michigan prison system is currently reviewing telephone system bids in response to a request for proposals that includes debit calling.
 - 4) Legislation to reduce inmate phone service costs has been introduced in seven states and the District of Columbia.
 - 5) A legislative review of the state's prisoner telephone system is underway in Oklahoma.

II. A higher rate combined with lower duration of calls creates collateral damage and deterioration of relationships that negatively impact the community, prisoners and their children, families and friends.

- A Limiting telephone communication between inmates and their families and friends, by instituting phone rate increases, tends to isolate inmates from their families and friends, hinders their rehabilitative process, and thereby makes our communities less safe. National experts estimate that 97% of prisoners will eventually return to society. Numerous studies have proven the common-sense notion that when prisoners have a social support system they are more successful once released from prison. Regular communication gives prisoners the necessary socialization skills they need to maintain employment, interpersonal relationships and social responsibilities after being institutionalized, often for many years. Higher phone rates and shorter call durations create emotional pressure on family relationships because there is less time to communicate. Communication among family members is vital to inmates and their children, contributes to lower recidivism rates, and is a tool for making our communities safer.
- B. Telephone charges are already extremely costly and present financial challenges for families of inmates who want to maintain healthy relationships – especially between incarcerated parents and their children. High phone rates restrict parental involvement for incarcerated parents who help their children with homework, and limit their phone conversations to hear how their children are doing in school. Higher phone rates also limit foster care agencies from letting children talk to their inmate parents because the agencies cannot afford the expense. Having a parent in prison is a traumatic experience for children. Parental separation, combined with other losses, intensifies the trauma these children experience. Increasing phone rates, which equates to decreasing the phone time available to incarcerated parents, would be another loss that can traumatically impact prisoners' children. Children need to speak with their parents often to know they are okay, and the same is true for inmates who need to speak with and reassure their children on a regular basis. Written correspondence does not take the place of a child wanting to hear their mother or father's voice. Many inmates and some of their family members are illiterate and find it difficult to communicate through written correspondence. Some correctional facilities prohibit those who speak a second language from writing in foreign languages and incoming and outgoing audio recordings are no longer permitted for security reasons.
- C. Families need stability in their lives, and should not have to worry about constant telephone rate increases that cause them emotional and financial hardship. For instance, after 1999, the so-called discount rate for inmate debit calls went from a 15% discount to a 10% discount. In April 2001, Global-Tel* sought to increase local inmate calls rates from \$.85 to \$1.35, but as a result of complaints filed with the Tennessee Regulatory Authority the requested rate increase was denied. Global-Tel*Link appealed, and in August 2002 the rate for a local collect inmate call was raised to \$1.00 (a 17% increase). In July 2001, Global*Tel announced a rate increase of \$.10 per minute for interstate long distance inmate calls, which boosted the company's interstate rates to \$3.95 plus \$.69 per minute, making the cost of a 30-minute long distance inmate call \$24.65. This was at a time when other phone companies were offering long distance rates of \$.05 per minute to the general public.

Again, on June 3, 2002, Global*Tel asked the TDOC to increase inmate collect telephone charges. Former TDOC Commissioner Donal Campbell, who informed the Executive Director of SOCC and our office by sending us a copy of his letter to Global*Tel's Vice President, rejected their request by stating, in part:

"...As you know, maintaining contact with family and friends in the free world is an important part of an inmate's rehabilitation and preparation to return to the community. Furthermore, telephone privileges are essential in managing inmate populations. While your proposal assumes no change in call volume or duration, we believe the cost increase could lead to a significant reduction in both. Such a reduction would hinder both of the aforementioned departmental objectives in addition to creating an undue hardship for the inmates' families..."

- D. Not specifying the duration of phone calls opens the door for abuse and creates loopholes. For example, within the last two months families have reported that at two Tennessee prisons, for unknown reasons, inmate collect calls were limited to 10 minutes per call. Since an inmate local collect call presently costs \$1.00 for up to 30 minutes, limiting calls to a 10-minute duration essentially triples the rate to \$3.00 for a 30 minute phone conversation (e.g., three ten-minute calls billed at \$1.00 each). The same is true if an inmate wants to call their family in Atlanta from Nashville. While the call would ordinarily cost around \$25.00 for a 30-minute call, with calls limited to 10 minutes the charge would be almost \$75.00 for the same 30-minute phone conversation. Enacting the proposed regulation, which sets a specified rate "regardless of the duration of the call," is *inadequate and unreasonable*. Prisoners who are preparing for trials, speaking with their attorneys, experiencing a family emergency, or simply talking with their children need more than an arbitrary 10-minute time limit on their calls. Setting a minimum call duration of 30 minutes is a reasonable recommendation as this has been the case for years at Tennessee prisons. Family members should be able to have conversations without interruption for at least 30 minutes.

These situations are real and higher phone rates have contributed to massive debts and even telephone disconnections for some inmates' families. Overwhelmingly the family is the major recipient who accepts and pays for collect calls from prisons or jails. These family members – parents, grandparents, children, spouses, siblings – and other relatives and friends of prisoners must either accept or pay for collect calls through the telecommunication service provider billing their local telephone provider, or must mail a money order to the telecommunications company or to the inmate's account.

Families recognize the valuable services that telecommunication companies such as Global*Tel and Evercom provide, and understand that such services are not free and may cost more than normal consumer rates due to security reasons. However, families believe there are too many gray areas in the practices of telecommunications companies which profit from those who are some of the poorest citizens in our state. According to Global*Tel, the company grossed \$13.7 billion with a net profit of \$522 million in 2001 (the most recent figures available).

While some may argue that inmates are causing problems with phone equipment which necessitate higher phone rates, other factors must be considered – including heavy phone use by a "captive" population that has few other communications options, failure by service providers to properly maintain their phones, faulty software that results in poor connections and disconnects, and an unwillingness to address

customer complaints about poor service and billing practices. Simply requesting – and receiving – a rate increase will not resolve these issues.

Telecommunication companies have expressed a desire for a more competitive market. There are many ways to accomplish such competition – for example, by offering services that allow prisoners to use pre-paid calling cards, or that let inmates call personal 1-800 numbers set up by family members. In the case of collect calls, the recipient should be able to select the carrier (billed party preference); also, there should be no operator surcharge since the entire process is computer-automated. Calls should be billed based on the exact number of minutes used. Rate increases or decreases should occur according to criteria set by the TRA. If phone companies want a more competitive marketplace then TRA should provide them with the tools and rules to do so, while keeping in mind that such competition is intended to benefit the consumers – *their customers* – and not just the corporate service providers.

Tennessee has been a national model, ranking #2 as having the lowest inmate phone rate charges in the nation. Increasing the rate cap on inmate local collect calls will reduce Tennessee's national rank to # 7 or to an even higher rank if durations are limited to less than 30 minutes per call. We are afraid that if this is allowed, the trend will continue.

Giving telecommunications companies the equivalent of a blank check in terms of instituting rate increases that must be paid by families of prisoners is not the answer. Therefore we respectfully request that you deny the proposed regulatory changes in docket numbers 04-00166 and 04-00211 as they relate to the rate cap increases and surcharges for inmate collect calls from prisons and jails, and to the extent they do not specify a minimum duration of 30 minutes for such calls.

In Great Regards,



Alice Arceneaux
Executive Director
Reconciliation

cc: Honorable Governor Phil Bredesen
Secretary of State, Riley Darnell
Attorney General, Mr. Paul G. Summers
Honorable Senator Ben Atchley
Honorable Senator Ward Crutchfield
Honorable Senator Rocoe Dixon
Honorable Senator John Ford
Honorable Senator David Fowler
Honorable Senator Thelma Harper
Honorable Senator Doug Jackson
Honorable Senator James Kyle

Honorable Senator Jeff Miller
Honorable Senator Mark Norris
Honorable Representative Charles Curtiss
Honorable Representative Lois Deberry
Honorable Representative Michael Kernell
Honorable Representative Edith Langster
Honorable Representative Bob McKee
Honorable Representative Phillip Pinion
Honorable Representative Curry Todd
Honorable Representative John Mark Windle
Mrs. Claire Drowota, Executive Director, Select Oversight Committee Corrections
Honorable Commissioner Quenton White, TDOC
Honorable Mayor Bill Purcell
Public Defender, Mr. Ross Alderman
Barbara Short, Tennessee Association of Criminal Defense Lawyers
Dr. Robert C. Butler, Tennessee State University
Mr. Alexander Friedman, Restorative Justice Coalition
Mrs. Glenda Lingo, Parents in Prison